1945

**File No.** Tobacco II/45-

Legal Department-

B **BRANCH**

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Subject:—

Rules and Notifications under the

Tobacco Duty (Town of Bombay)

Act, 1857

3/1945

**File No.** Tobacco II/45-

Gen. 194 e.

79-E

Office of the R.L.A.

Section 11 of the Tobacco Duty (Town of Bombay) Act, 1947, provides that licensee shall be in force for a period of twelve calender months. This provision is mandatory and it will not be legally feasible to grant a license for a lesser period. Under the said section read with rules 5 to 7 of the Tobacco Duty (Town of Bombay) Rules 1938 the full fee will have to b e levied.

2. Section 7 of the Bombay (District) Tobacco Act, 1933, provides for granting licenses annually or for any less period by the Collector in the manner prescribed by the Provincial Government on payment of fees specified in the Schedule to the Act. Rule 5 of the Bombay (District) Tobacco Rules, 1938, provides that the license shall ordinarily be granted for one year from 1st April to 31st March following : and in cases where an application for such license is received after 1st April from the date of receipt of the application to 31st March next following. The first proviso to the said rule permits of the grant of license for retail Sale only or any less period. The fees specified in the Schedule to the Act are maximum in certain cases and a fixed rate in certain other cases. Rule 10, however, provides how the fees are to be calculated in each case and then rule 11 expressly provides that even when a license is granted for any period less than a year, the same fee shall be levied as would have been leviable if the license had been granted for the whole year, In view of these provisions, it is clear that even if a

license....

license for retail sale may be granted for a period less than a year, no proportionately reduced license fee can be levied. The executive instructions proposed by Secretary, R.D., cannot bherefore be issued.

Id/- P.N.M.

Remembrancer of Legal Affairs.

U.R. to R.D., No. 546,
dated the 16th January 1945.

JPE.13/7/56.
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Section 11 of the Tobacco Duty (Town of Bombay)Act, 1867, provides inter alia that a license shall be in force for a period of 12 calendar months. It further provides that such fee as may be fixed by rules made by the Provincial Government in that behalf shall be levied for every such license subject to certain specified maxima. Rules 5 to 7 of the Tobacco Duty (Town of Bombay) Rules, 1938, fix the amounts of these fees. It is immaterial that the forms of license themselves do not specify the fee but the forms states thatthe license is granted "on payment of Rs.( )", and do not contain any further condition as to further payment in instalments. This read with the said rules 5 to 7 and section 11 shows that a licensee will have to pay the full prescribed fee in advance before a license is granted to him as already stated in the 1st para. of R.L.A.'s opinion No. 456, dated the16the January 1945, (at page 3 ante). The suggestion made by the Additional Collector of Central Excise is not therefore legally feasible.

Id/- P.N.M.
11/2/45.

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U.R. to R.D.No.970,

dated the 1st February 1945.

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